

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKET NUMBER: 04-12097GAO

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,
Plaintiff,

v.

WASHINGTON GROUP INTERNATIONAL, INC.,
Defendant.

**DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT
AND JURY TRIAL DEMAND**

Defendant Washington Group International, Inc. (“Washington Group” or “the Company”) answers Plaintiff’s Complaint and Jury Trial Demand (“Complaint”) as follows:

The first paragraph of Plaintiff’s Complaint is unnumbered and contains introductory statements and legal conclusions to which no response is required. To the extent it contains any factual allegations to which a response is required, Washington Group denies same.

JURISDICTION AND VENUE

1. Paragraph 1 contains jurisdictional allegations to which Washington Group is not obligated to respond. To the extent paragraph 1 contains any factual allegations to which a response is required, Washington Group denies same.

2. Paragraph 2 contains a jurisdictional allegation to which Washington Group is not obligated to respond. To the extent paragraph 2 contains any factual allegations to which a response is required, Washington Group admits that the Charging Parties were at various times and for varying periods employed at a job site located in Everett, Massachusetts. Washington Group denies any remaining factual allegations in paragraph 2.

PARTIES

3. Paragraph 3 contains legal conclusions to which Washington Group is not obligated to respond. To the extent there are factual allegations in Paragraph 3 to which a response is required, Washington Group admits those allegations, on information and belief.

4. Washington Group admits that, during the relevant time period, it was doing business in Massachusetts and had more than 15 employees. Washington Group denies any remaining factual allegations in Paragraph 4.

5. Paragraph 5 contains legal conclusions to which Washington Group is not obligated to respond. Washington Group admits, on information and belief, the factual allegations contained in Paragraph 5 of the Complaint.

STATEMENT OF CLAIMS

6. Washington Group believes, and therefore avers, that at least four of the individuals named as “Charging Parties” in the Complaint filed charges with the Massachusetts Commission Against Discrimination and that said charges were subsequently transferred to the Equal Employment Opportunity Commission and consolidated with other charges filed directly with the Commission. Washington Group is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 6 of the Complaint and, therefore, denies same.

7. Washington Group admits that during the summer of 2002, there was graffiti present at the work site in Everett, Massachusetts, and that on one occasion, Mr. Enagbarre reported that his tools had been stolen. Washington Group denies all remaining allegations contained in Paragraph 7 of the Complaint, including subparagraphs a. – g. of Paragraph 7.

8. Washington Group denies the allegations contained in Paragraph 8 of the Complaint.

9. Washington Group denies the allegations contained in Paragraph 9 of the Complaint.

10. Washington Group denies the allegations contained in Paragraph 10 of the Complaint.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails, in whole or in part, to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Any action taken by Washington Group affecting the Charging Parties or similarly situated individuals was based on legitimate, non-discriminatory business reasons.

THIRD AFFIRMATIVE DEFENSE

At all times Washington Group acted in good faith with regard to the Charging Parties and similarly situated individuals, had reasonable grounds for believing its actions were not in violation of law, and would have made the same decisions regarding the employment of the Charging Parties and similarly situated individuals in the absence of any alleged unlawful animus.

FOURTH AFFIRMATIVE DEFENSE

Any action taken by Washington Group with respect to the Charging Parties or similarly situated individuals was based on reasons other than race or protected activities.

FIFTH AFFIRMATIVE DEFENSE

The Charging Parties have failed to mitigate any damages to which they might otherwise be entitled and for which Plaintiff seeks to recover on their behalf in this action.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the failure of the Charging Parties and those individuals similarly situated to exhaust administrative remedies and/or satisfy statutory prerequisites.

SEVENTH AFFIRMATIVE DEFENSE

Any injuries allegedly suffered by the Charging Parties or similarly situated individuals are due, in whole or in part, to the acts of individuals over whom Washington Group had no authority, responsibility, or control.

EIGHTH AFFIRMATIVE DEFENSE

Any injuries allegedly suffered by the Charging Parties or similarly situated individuals are due, in whole or in part, to their own misconduct.

NINTH AFFIRMATIVE DEFENSE

All or part of Plaintiff's claims are barred by the applicable statute of limitations.

TENTH AFFIRMATIVE DEFENSE

To the extent Washington Group had any duties or obligations to the Charging Parties or similarly situated individuals, the Company has performed and satisfied such duties and obligations.

WHEREFORE, Defendant Washington Group International, Inc. respectfully requests that Plaintiff's Complaint be dismissed, that Defendant be awarded its costs and attorneys' fees, and that the Court grant such other and further relief as it deems just and appropriate.

DEFENDANT DEMANDS A TRIAL BY JURY.

WASHINGTON GROUP INTERNATIONAL, INC.

By its attorneys,

/s/Erin K. Higgins

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Dated: November __, 2004

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